

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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JAMES EDWARD BARBER, :
: :
Plaintiff, : :
: Case No. 2:23-cv-00342-ECM
v. : :
: :
KAY IVEY, Governor of the State of :
Alabama, *et al.*, :
: :
Defendants. : :
-----x

DECLARATION OF KENNETH EUGENE SMITH

KENNETH EUGENE SMITH declares under penalty of perjury that:

1. I am over the age of twenty-one (21) and this declaration is based on my personal knowledge.
2. I am incarcerated at W.C. Holman Correctional Facility under a judgment of conviction for capital murder and subject to a death sentence.
3. On November 17, 2022, the Alabama Department of Corrections (“ADOC”) attempted to execute me but aborted the execution after ADOC personnel were unable to set two intravenous lines by either method authorized by ADOC’s lethal injection protocol.
4. ADOC’s unsuccessful attempts to establish intravenous access caused me severe physical pain and emotional trauma as described in paragraphs 138 through 235 of the Second Amended Complaint in my pending litigation styled *Smith v. Hamm, et al.*, No. 2:22-cv-00497-RAH, Doc. 71 (M.D. Ala.), which are incorporated by reference.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 27, 2023


Kenneth Eugene Smith